

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ENCOMPASS INSURANCE COMPANY)
OF MASSACHUSETTS,) CIVIL ACTION NO. _____
)
 Plaintiff,)
)
 vs.)
)
 FELIX SHLOSMAN, LORNA MATHIEU, P.T.,)
 ASHA SAXENA, M.D., AD MEDICAL)
 SERVICES, INC. d/b/a MIDDLESEX)
 PHYSICAL THERAPY AND LAWRENCE)
 PHYSICAL THERAPY,)
)
 Defendants.)
)

PLAINTIFF'S EX PARTE MOTION FOR ATTACHMENTS
BY TRUSTEE PROCESS

The plaintiff, Encompass Insurance Company of Massachusetts (hereinafter "Encompass"), pursuant to Rule 64, Fed R. Civ. P., and the applicable provisions of Rule 4.2, Mass. R. Civ. P., respectfully requests that this Court enter an Order approving the attachment of any goods, credits and effects including, by way of illustration and not limitation, checking accounts, savings accounts, joint accounts, and brokerage accounts of the defendants in the possession or control of the following Trustees (and any later identified Trustees):

- **Enterprise Bank & Trust Company;**
- **Citizens Bank;**
- **TD BankNorth;**
- **Sovereign Bank;**
- **Northern Bank & Trust Company;**
- **Bank of America;**
- **Eastern Bank;**

- **Brookline Bank;**
- **Lowell Co-Operative Bank;**
- **Salem Five Cents Savings Bank; and**

up to the amount of SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000.00).

The plaintiff has filed a civil action against the defendants asserting claims under, inter alia, 18 U.S.C. §1962, et seq., Mass. Gen. Laws ch. 93A, and state law claims of civil conspiracy, common-law fraud and intentional interference with contractual relationships. The plaintiff seeks damages in an amount of \$750,000.00 together with reasonable attorneys' fees and costs of this suit.

The fraudulent activities of the defendants are described in the plaintiff's Complaint as well as the Affidavits of Angel M. Davis, Linda E. Arslanian, PT, DPT, MS and Gregory Matthew Shoukimas, M.D. As the Complaint and Affidavits demonstrate, there is a reasonable likelihood that the plaintiff will recover Judgment, including interest and costs, in an amount equal to or greater than the amount of the Attachment sought by the plaintiff.

The Judgment sought by Encompass is not the result of an ordinary contract dispute or tort injury. Encompass' damages are the result of the defendants knowing participation and conspiracy to defraud Encompass. The defendants' scheme to defraud has caused Encompass to pay substantial sums of money in reliance upon the defendants' false medical documentation.

Encompass has no knowledge of the existence of any liability insurance available to the defendants to satisfy any Judgment against the defendants in this action. (See Certificate of No Liability Insurance filed herewith). Encompass has no reason to believe that any liability insurance will be available to satisfy a Judgment in this matter as the Complaint alleges intentional, fraudulent conduct.

As further grounds for this motion, Encompass respectfully directs the Court's attention to the Memorandum of Law and supporting Affidavits of Angela M. Davis, Linda Arslanian, PT, DPT, MS, and Gregory Matthew Shoukimas, M.D., filed together herewith.

WHEREFORE, because the defendants, as conspirators, will be liable, individually, jointly and severally with one another should the plaintiff prevail, and because there is a reasonable likelihood that the plaintiff will recover Judgment, including interest and costs, in an amount in excess of the Attachment by Trustee Process requested herein, along with the absence of any available liability insurance, the plaintiff respectfully requests that this Court enter an Order approving the Attachments by Trustees Process on any goods, credits and effects in which the defendants have any interest, in the hands and possession of the Trustee up to the amount of SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000.00).

Respectfully Submitted
Encompass Insurance Company,
By its Attorneys,

Richard D. King, Jr. (BBO # 638142)
Nathan A. Tilden (BBO # 647076)
SMITH & BRINK, P.C.
122 Quincy Shore Drive
Quincy, MA 02171
Tel: (617) 770-2214

Dated: *2/28/07*